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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,061	02/16/2001	Theodore Trost	BU1540	5102
23446 7590 11/01/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER YUN, EUGENE	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/788,061

Applicant(s)

TROST ET AL.

Examiner

Eugene Yun

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In view of the appeal brief filed on 7/27/2007, PROSECUTION IS HEREBY REOPENED. A new non-final action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Response to Amendment***

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Vanden Heuvel et al. (US 5,426,424).

Referring to Claim 8, Vanden Heuvel teaches a processor 106 (fig. 1) comprising a memory 115 (fig. 1) having a plurality of fragments 504 (fig. 5) and an array 501 (fig. 5) configured to control the sequence of memory fragments from which data is read (see col. 5, lines 3-18).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanden Heuvel et al. (US 5,426,424) in view of Larsen (US 6,223,290).

Referring to Claim 1, Vanden Heuvel teaches a wireless communications device (see fig. 1 where the device 100 has a wireless antenna 102), comprising:

a processor 106 (fig. 1) coupled to the wireless transceiver, the processor having a memory 115 (fig. 1) comprising a plurality of fragments 504 (fig. 5) and an array 501 (fig. 5) configured to control the sequence of memory fragments from which data is read (see col. 5, lines 3-18).

Vanden Heuvel does not teach a wireless transceiver. Larsen teaches a wireless transceiver (see col. 3, lines 53-56 where the cellular telephone is the wireless transceiver). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teachings of Larsen to said device of Vanden Heuvel in order to allow easier access to received selective call messages by maintaining a dynamically configured hierarchial memory structure.

Referring to Claim 2, Larsen also teaches a second array configured to indicate a status of each of the memory fragments (see col. 4, lines 27-29 where the auxiliary memory contains the second array).

Referring to Claim 9, Vanden Heuvel does not teach the processor comprising a second array configured to indicate a status of each of the memory fragementts. Larsen teaches a second array configured to indicate a status of each of the memory fragments (see col. 4, lines 27-29 where the auxiliary memory contains the second array).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the receiver of Vanden Heuvel with the transceiver of Larsen, in order to provide the device with the ability to transmit information, such as acknowledgements.

Referring to Claims 3 and 10, Larsen also teaches the status indicated by the second array for each of the memory fragments comprising a bit to indicate whether its respective memory fragment is empty (see col. 4, lines 47-52 where erasing the memory results in an empty memory fragment).

Referring to Claims 4 and 11, Vanden Heuvel also teaches a read pointer 804 (fig. 8) configured to indicate the memory fragment from which the data is being read (see col. 9, lines 44-51).

Referring to Claims 5 and 12, Larsen also teaches memory fragments comprising 64 bytes (see col. 5, lines 10-16).

Referring to Claims 6 and 13, Larsen also teaches the memory fragments comprising 128 memory fragments (see col. 6, lines 3-8).

Referring to Claims 7 and 14, Larsen also teaches the array comprising a 128 element array (see col. 6, lines 3-8).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's arguments filed 7/27/2007 have been fully considered but they are not persuasive.

Regarding the arguments pertaining to the memory, the claims do not state anything about the processor "containing" the memory. They only state the processor "having" a memory. Therefore, it does not matter whether or not the memory in the Vanden Heuvel reference is not inside the box. Both of the references show the memory connected and/or coupled to the processor. Therefore, both of the references used teaches the processor having a memory, and the examiner did not change his argument with regards to claim 8. the examiner only reopened prosecution because the

examiner agreed that the Vanden Heuvel reference does not anticipate a wireless transceiver.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Yun whose telephone number is (571) 272-7860. The examiner can normally be reached on 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571)272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
MATTHEW ANDERSON  
SUPERVISORY PATENT EXAMINER

  
Eugene Yun  
Examiner  
Art Unit 2618